

Every distributor of cigarettes, who is required to procure a license under this Act, shall keep within Illinois, at his licensed address, complete and accurate records of cigarettes held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold, or otherwise disposed of. See 35 ILCS 130/11. (This is a GIL.)

November 30, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated March 12, 1998. We regret the delay in our response. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated, in part, and made inquiry as follows:

I appear to be losing some cigarette business to my competition. Not for the usual reasons of price or service but because I insist on sending a computer-printed invoice and they do not. Draw your own conclusions.

Do I have to track every carton of cigarettes via an invoice or do I not? I need an answer before I lose any more business.

We have enclosed copies of 86 Ill. Adm. Code 440.10 through 440.230, the Department regulations that govern the Illinois Cigarette Tax Act. These rules explain how Illinois taxes retailers who sell cigarettes. Cigarettes are taxed at a rate of 29 mills per cigarette, or 58 cents per 20 count package, through a system utilizing stamps that are affixed to the cigarette package. The stamps are generally affixed to the packages by the distributor, who adds the amount of tax to the price charged to the retailer.

86 Ill. Adm. Code 440.10(h) states as follows:

"The amount of the cigarette tax imposed by the Act **shall be separately stated, apart from the price of the goods**, by both distributors and retailers, in all advertisements, bills and sales invoices."

The Cigarette Tax Act, 35 ILCS 130/11, states, in part, as follows:

"Every distributor of cigarettes, who is required to procure a license under this Act, shall keep within Illinois, at his licensed address, complete and accurate records of cigarettes held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold, or otherwise disposed of, **and shall preserve and keep within Illinois at his licensed address all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a return is required of all cigarettes on hand and of all cigarette revenue stamps, both affixed and unaffixed, and other pertinent papers and documents relating to the manufacture, purchase, sale or disposition of cigarettes.** All books and records and other papers and documents that are required by this Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The Department may adopt rules that establish requirements, including record forms and formats, for records required to be kept and maintained by taxpayers. For purposes of this Section, "records" means all data maintained by the taxpayer, including data on paper, microfilm, microfiche or any type of machine-sensible data compilation. Those books, records, papers and documents shall be preserved for a period of at least 3 years after the date of the documents, or the date of the entries appearing in the records, unless the Department, in writing, authorizes their destruction or disposal at an earlier date. At all times during the usual business hours of the day any duly authorized agent or employee of the Department may enter any place of business of the distributor, without a search warrant, and inspect the premises and the stock or packages of cigarettes and the vending devices therein contained, to determine whether any of the provisions of this Act are being violated. If such agent or employee is denied free access or is hindered or interfered with in making such examination as herein provided, the license of the distributor at such premises shall be subject to revocation by the Department." (emphasis added.)

The Cigarette Use Tax Act contains a similar provision at 35 ILCS 135/15. See also 86 Ill. Adm. Code 450.50, enclosed.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.